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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,162	11/14/2003	Richard Allen Merrifield	DP-310488	2903
7590	11/15/2005		EXAMINER	
Scott A. McBain M/C 480-410-202 P.O. Box 5052 Troy, MI 48007			BROWN, DREW J	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/714,162	Applicant(s) MERRIFIELD ET AL.	
	Examiner Drew J. Brown	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/14/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-14, drawn to the cuts, scores, and method of making the cuts, classified in class 280, subclass 728.3.
- II. Claims 15-20, drawn to the method of using a mold having a feature to make the cuts, classified in class 264, subclass 163.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, invention II requires a mold having a feature not required by invention I.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Lonnie Drayer on Monday, October 31st, 2005 a provisional election was made with traverse to prosecute the invention of the instrument panel having a plurality of cuts, claims 1-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 7 recites the limitation "said plurality of scores" in lines 11 and 12. There is insufficient antecedent basis for this limitation in the claim. As best understood by the examiner, the "said plurality of scores" should actually be changed to --said plurality of cuts--.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 6-8, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamasaki et al. (U.S. Pat. No. 5,698,283) in view of Hagenow et al. (U.S. Pat. No. 5,632,914).

With respect to claims 1 and 7, Yamasaki et al. discloses a first outer layer (13) having a show surface (top of outer layer 13) and an inner surface (bottom of outer layer 13). An intermediary layer (14) is disposed on the inner surface, and an inner layer (15) is disposed on the intermediary layer after it is disposed on the inner surface. There are a

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plurality of cuts in the show surface that do not extend completely through the first outer layer (Figure 1).

With respect to claims 2 and 8, the inner layer is configured to have a plurality of scores (16b) positioned in a similar arrangement as the plurality of cuts.

Yamasaki et al. does not disclose that the plurality of cuts are not visually perceivable. However, Hagenow et al. does disclose that a plurality of cuts (40A) formed by a laser are not visually perceivable (column 3, lines 35-38).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Yamasaki et al. in view of the teachings of Hagenow et al. to use a laser to make cuts in the show surface that are not perceivable in order to make the interior of the vehicle more aesthetically pleasing while performing the same function.

With respect to claims 6 and 7, Yamasaki et al., in view of the teachings of Hagenow et al., does not disclose that the plurality of cuts are angularly offset from an axis that is normal to the show surface in a direction towards the windshield. However, it would have been obvious matter of design choice to further modify the invention of Yamasaki et al. by having the plurality of cuts extend at an angle offset from an axis normal to the show surface in a direction towards the windshield, since it appears that the cuts would also not be visually perceivable when extending offset to the axis normal to the show surface. *In re Aller et al.*, 105 U.S.P.Q. 233.

The apparatus claims meet the method limitations of claims 12-14.

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6. Claims 3, 5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamasaki et al. in view of Hagenow et al., and further in view of Lutze et al. (U.S. Pat. No. 6,224,090 B1).

With respect to claims 3 and 9, Yamasaki et al., as modified by Hagenow et al., discloses the claimed invention as discussed above, but does not disclose that the plurality of scores are arranged in the shape of a "U." With respect to claim 5, Yamasaki et al. does not disclose that the plurality of cuts are formed in a nonlinear manner.

However, Lutze et al. does disclose that a plurality of scores are arranged in the shape of a "U." Lutze et al. also discloses that the plurality of scores are formed in a nonlinear manner (Figure 3).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the invention of Yamasaki et al. in view of the teachings of Lutze et al. to arrange the plurality of scores in the shape of a "U" in order to allow the airbag cover to tear as desired upon inflation of the airbag. Because the plurality of scores are formed in a nonlinear manner, it would have also been obvious to form the plurality of cuts in a nonlinear manner in order to remain consistent with the arrangement of scores to provide a clean tear of the airbag cover upon inflation. It would have also been obvious to arrange these cuts and scores in a nonlinear manner so the process of making the cuts would be faster and cheaper because the laser would not have to be calibrated to follow a perfectly straight path.

7. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamasaki et al. in view of Hagenow et al., and further in view of Gardner, Jr. (U.S. Pat. No. 6,753,057 B1).

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Yamasaki et al., as modified by Hagenow et al., discloses the claimed invention as discussed above, and also discloses that the inner layer is formed of a thermoplastic material (column 5, lines 3-4). However, the modification of Yamasaki et al. does not disclose that the intermediary layer is formed of a polyurethane foam and that the first outer layer is formed of a polyurethane material.

However, Gardner, Jr. does disclose that the intermediary layer is formed of a polyurethane foam (column 5, lines 64-67) and that the first outer layer is formed of a polyurethane material (claim 1).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the intermediary layer of a polyurethane foam and that the first outer layer of a polyurethane material in order to provide the airbag cover with desired properties to allow the airbag to tear through the layers cleanly without being hindered.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamasaki et al. in view of Hagenow et al., and further in view of Lutze et al. and Ueno et al. (U.S. Pat. No. 6,716,519 B2).

Yamasaki et al., as modified by Hagenow et al., discloses the claimed invention as discussed above, but does not disclose that the plurality of cuts are formed in a nonlinear manner or that the show surface is textured to have a textured surface.

However, Lutze et al. does disclose that the plurality of scores are formed in a nonlinear manner (Figure 3), and Ueno et al. discloses that the show surface has a textured surface (column 6, lines 6-9).

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Because the plurality of scores are formed in a nonlinear manner, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the invention of Yamasaki et al. in view of the teachings of Lutze et al. to form the plurality of cuts in a nonlinear manner in order to remain consistent with the arrangement of scores to provide a clean tear of the airbag cover upon inflation. It would have also been obvious to arrange these cuts and scores in a nonlinear manner so the process of making the cuts would be faster and cheaper because the laser would not have to be calibrated to follow a perfectly straight path. Finally, it would have been obvious to further modify the invention of Yamasaki et al. in view of the teachings of Ueno et al. to have a textured show surface in order to conform to the rest of the interior of the vehicle as well as helping to hide the airbag cover surface cuts.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lutze et al. (U.S. Pub. No. 2003/0230875 A1), Sommer (U.S. Pat. No. 6,692,019 B2); Yokota (U.S. Pat. No. 6,406,056 B2), Kreile (U.S. Pat. No. 6,357,788 B2), and Totani et al. (U.S. Pat. No. 5,779,262) all disclose similar instrument panels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 7 a.m. to 4 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Drew J Brown
Examiner
Art Unit 3616

DJB


11/9/05
DAVID R. DUNN
PRIMARY EXAMINER